

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**BATTERY CONSERVATION
INNOVATIONS, LLC,**

Plaintiff,

v.

THE SWATCH GROUP (U.S.), INC.,

Defendant.

CASE NO.: 3:21-cv-01841

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Battery Conservation Innovations, Inc. (“Plaintiff” or “BCI”) files this complaint against The Swatch Group (U.S.), Inc. (“Defendant” or “Swatch”) for infringement of U.S. Patent No. 9,239,158 (hereinafter the “158 Patent”) and alleges as follows:

PARTIES

1. Plaintiff is a Texas limited liability company with an office address of 1 East Broward Boulevard, Suite 700, Ft. Lauderdale, FL 33301.
2. On information and belief, Defendant is a Delaware corporation with an office address of 703 Waterford Way, Suite 450, Miami, FL 33126. On information and belief, Defendant may be served through its agent, The Prentice-Hall Corporation System, Inc., 251 Little Falls Drive, Wilmington, DE 19808.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. § 271 et seq. Plaintiff is seeking damages, as well as attorney fees and costs.
4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents).

5. On information and belief, this Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. Upon information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in the District.

7. Venue is proper in this District under 28 U.S.C. §1400(b) because acts of infringement are occurring in this District and Defendant has a regular and established place of business in this District at, for example, 8687 N. Central Expy., Space # 1144, Dallas, TX 75225.

BACKGROUND

8. On January 19, 2016, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '158 Patent, entitled "Battery-Conserving Flashlight And Method Thereof." The '158 Patent is attached as Exhibit A.

9. Plaintiff is currently the owner of the '158 Patent.

10. Plaintiff possesses all rights of recovery under the '158 Patent, including the exclusive right to recover for past, present and future infringement.

COUNT ONE

(Infringement of United States Patent No. 9,239,158)

11. Plaintiff refers to and incorporates the allegations in Paragraphs 1 - 10, the same as if set forth herein.

12. This cause of action arises under the patent laws of the United States and, in particular under 35 U.S.C. §§ 271, *et seq.*

13. Defendant has knowledge of its infringement of the '158 Patent, at least as of the service of the present complaint.

14. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including at least Claim 15, of the '158 Patent by making, using, importing, selling, and/or offering for sale battery conserving electronic devices covered by one or more claims of the '158 Patent.

15. Accordingly, Defendant has infringed, and continues to infringe, the '158 Patent in violation of 35 U.S.C. § 271.

16. Defendant sells, offers to sell, and/or uses battery conserving electronic devices, including, without limitation, the T-Touch Solar E84 device, and any similar products ("Product"), which infringe at least Claim 15 of the '158 Patent.

17. The Product is a battery-conserving electronic device. For example, the Product is powered by a battery and includes motion sensing capabilities, wherein the Product may automatically switch to sleep mode when no movement is detected. Certain aspects of this element are illustrated in the screenshot(s) below and/or in those provided in connection with other allegations herein.



SLEEP (STANDBY MODE) > SETTING

Standby mode is a battery saving mode. All the functions are deactivated, with only the time & date counters updated. This mode economises the battery when the watch is not being worn.

IMPORTANT: Calibrate the altitude or relative pressure by exiting standby mode, in order to obtain the correct altimetric and barometric values.

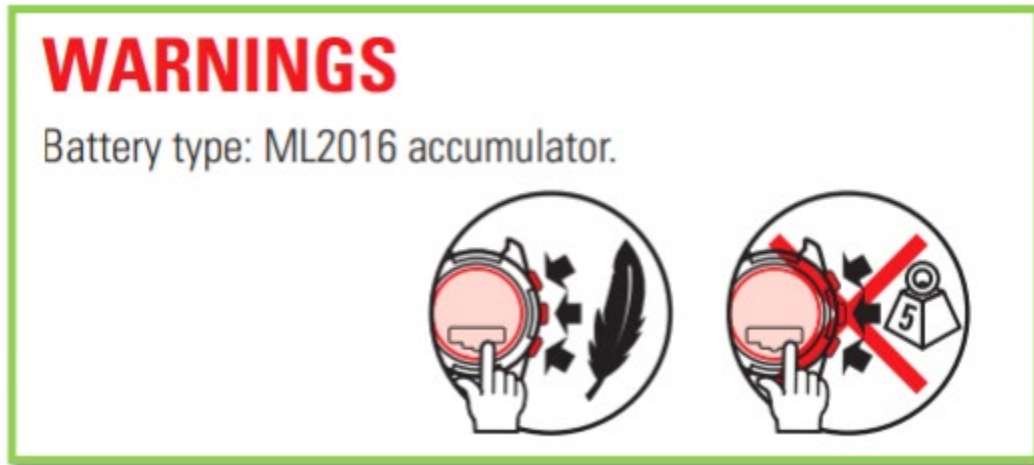
Source: <https://www.tissotwatches.com/assets/usermanuals/154-en.pdf>

18. The Product includes a body with an opening for accessing an interior of the body. For example, the Product includes housing, which may be accessed by a user, and which houses a battery. Certain aspects of these elements are illustrated in the screen shots below and/or in screenshots provided in connection with other allegations herein.



Source: <https://www.youtube.com/watch?v=EmqWX31LwOE>

19. The Product has at least one replaceable battery disposed in the body and configured for powering the device. Certain aspects of these elements are illustrated in the screen shots below and/or in screenshots provided in connection with other allegations herein.



Source: <https://www.tissotwatches.com/assets/usermanuals/154-en.pdf>

20. The Product includes a controller (e.g., processor responsive to motion sensors) disposed in the body configured to determine if the body is in motion (e.g., motion sensors detect motion of device; when motion is absent, device can switch to sleep mode). If the device is not in motion for a first predetermined period of time, the controller decouples the at least one battery from the electronic device to conserve energy in the at least one battery. Certain aspects of these elements are illustrated in the screen shots below and/or in screenshots provided in connection with other allegations herein.



SLEEP (STANDBY MODE) > SETTING

Standby mode is a battery saving mode. All the functions are deactivated, with only the time & date counters updated. This mode economises the battery when the watch is not being worn.

IMPORTANT: Calibrate the altitude or relative pressure by exiting standby mode, in order to obtain the correct altimetric and barometric values.



ECO (ENERGY SAVING MODE) > SETTING

This mode is used to save the battery at night if the watch is not operated for one hour, when time T1 is between 22:00 and 5:00. The digital display is deactivated and the analogue display indicates time T1. The chrono or countdown are not stopped if they are running. It is not possible to switch to energy saving mode from the Altimeter function.



BAT (BATTERY) > GLOSSARY

A micro-controller manages the watch's consumption and the battery charge state display. According to this state, it deactivates certain functions, or switches the watch to **energy saving** mode (see page 9).

Source: <https://www.tissotwatches.com/assets/usermanuals/154-en.pdf>

21. The Product has a visual indicator (e.g., LED status indicator) disposed on an exterior surface of the body. The indicator may function differently for different situations, implying a controller activates the visual indicator. Certain aspects of these elements are illustrated in the screen shots below and/or in screenshots provided in connection with other allegations herein.



Source: <https://www.tissotwatches.com/assets/usermanuals/154-en.pdf>

22. Defendant's actions complained of herein will continue unless Defendant is enjoined by this Court.

23. Defendant's actions complained of herein is causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

24. The '158 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

25. By engaging in the conduct described herein, Defendant has injured Plaintiff and is thus liable for infringement of the '158 Patent, pursuant to 35 U.S.C. § 271.

26. Defendant has committed these acts of literal infringement, or infringement under the doctrine of equivalents of the '158 Patent, without license or authorization.

27. As a result of Defendant's infringement of the '158 Patent, Plaintiff has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

28. Plaintiff is in compliance with 35 U.S.C. § 287.

29. As such, Plaintiff is entitled to compensation for any continuing and/or future infringement of the '158 Patent up until the date that Defendant ceases its infringing activities.

DEMAND FOR JURY TRIAL

30. Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

- (a) Enter judgment for Plaintiff on this Complaint on all cases of action asserted herein;
- (b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receives notice of the order from further infringement of United States Patent No. 9,239,158 (or, in the alternative, awarding Plaintiff running royalty from the time judgment going forward);
- (c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;
- (d) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated August 6, 2021.

Respectfully submitted,

/s/ Jay Johnson

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